

**Testimony before the House Judiciary Committee's Subcommittee on
Crime and Corrections**

State Correctional Institution at Camp Hill

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Good Afternoon Chairman Birmelin, members, and staff. My name is Robert Bitner. I am the Chief Hearing Examiner for the Department of Corrections, and I would like to speak to you today about our inmate disciplinary process.

Many of you have heard Secretary Horn speak about our goal to provide inmates with a safe place to serve their time. The inmate disciplinary process plays a key role in our efforts to achieve this goal. As free members of our own communities, we as citizens have laws to set standards of behavior and a judicial system to protect us from those who refuse to live by those standards. A prison population is its own small community. The inmate disciplinary process establishes standards of behavior for the inmates in our small prison communities, as well as consequences for those who refuse to live by those standards. It helps to maintain civil behavior in the institutions and to protect the majority of the inmates who choose to follow the rules. Most of you have visited our prisons. You have seen for yourselves that they are civil places for an inmate to serve time safely. We are proud of that achievement.

The United States Supreme Court's position with respect to inmate discipline has evolved over the years. The current constitutional standard was provided by the Supreme Court

in Sandin v. Conner, which outlines correctional agency responsibilities to provide inmates with notice of the rules, notice of disciplinary charges, and opportunity to be heard. The Department currently provides inmates with an Inmate Handbook that sets forth prohibited conduct and the sanctions for engaging in that conduct. The Handbook also explains how inmates are notified of charges against them, the process by which the charges against them are heard and the Department's internal appeal process. It could be argued that the Department is providing inmates with more Due Process than is required. Nevertheless, it is a system that has worked well for the Department, inmates and staff.

The Inmate Handbook includes all of our prison rules and administrative directives and is issued to every inmate at initial reception. In addition, each institution has its own supplement to the Inmate Handbook, also issued to each inmate. A Spanish version of the Inmate Handbook is also available. In addition, rules and regulations are explained to inmates during classification orientation. Updated or amended rules are also issued individually to inmates and explained over the prison cable television channel.

When an inmate is accused of violating one of the rules, the inmate is notified of the charges prior to the hearing. To accomplish this, we use a misconduct report form which automatically copies onto several colored copies. One of these copies is delivered personally to the inmate at least 24 hours before the hearing takes place. In addition, the inmate is provided with a form to request an assistant and witnesses, as well as a form to document the inmate's version of the event.

The inmate disciplinary hearing is conducted by a Department of Corrections Hearing Examiner. There are seventeen Hearing Examiners, who are Central Office employees

under the direction of the Office of Chief Counsel. I am their immediate Supervisor. The examiners serve as impartial fact finders and are not members of the institution staff, nor are they accountable to the institution Superintendent.

The accused inmate has the opportunity to present his or her version of the event at the hearing, and may request witnesses to support that version. Inmates who legitimately require assistance to understand the process or present their version may be provided with a staff assistant at the hearing. The staff assistant may be a Counselor, Psychologist, Department of Corrections Paralegal, or in some cases, an Officer. The institutions maintain contract translation services to assist non-English speaking inmates. At the conclusion of the hearing, the inmate is informed in person of the decision, the reasons for the decision, and what the sanction will be.

Inmates are provided with a process to appeal the decision of the Hearing Examiner. The first level of appeal is to the Program Review Committee. This is a committee consisting of a Deputy Superintendent, a Commissioned Officer, and one management level employee. Should the Program Review Committee uphold the decision of the Hearing Examiner, the inmate may then appeal to the institution Superintendent. The final level of appeal is to me, the Chief Hearing Examiner.

Inmates found guilty of serious violations of established rules may be sanctioned to Disciplinary Custody status in a Restricted Housing Unit (RHU). This is the maximum restricted status of confinement in the Department of Corrections. The maximum allowable sanction to disciplinary custody is ninety days per charge. The purpose of the RHU is to separate those inmates who refuse to abide by the established standards of

behavior from those who wish to safely do their time. Inmates in the RHU are seen weekly by their Counselor and on an as needed basis by the Unit Management Team. The Unit Management Team is the inmate's Counselor, one of the Unit Correctional Officers, and the Unit Manager. The Program Review Committee has the authority to reduce Disciplinary Custody time based on factors such as improved behavior or positive attitude. On any given day, only 2.5 percent of our statewide population is housed in the RHU. This 2.5 percent includes Administrative Custody, Protective Custody, and Capital cases.

On April 15, 2000, we began a new disciplinary process which we call Informal Resolution. Nearly half of our misconduct charges are now eligible to be informally resolved by the Unit Management Team, who may impose minor sanctions such as a warning, loss of specified privileges, cell restriction, assignment of additional work duties, or restitution for damaged state items. The Informal Resolution process has a positive effect for inmates as the resolution is not documented as a misconduct on the inmate's record. This intermediate disciplinary process was established to encourage local resolutions of problems on the unit, as well as to reduce the statewide RHU population. Prior to the Informal Resolution process, staff had no alternative but to either ignore unacceptable behavior or file formal misconduct charges which could result in disciplinary custody sanctions. The Informal Resolution process provides staff with a reasonable alternative to handle unacceptable behavior.

There is an old saying in Corrections that eighty percent of our time and effort goes into managing twenty percent of our inmate population. In my 25 years of experience, I have found this to be true. Twenty percent of our inmates present serious management and

disciplinary problems. This leaves the eighty percent who simply want to do their time safely, take advantage of available treatment programs, and earn their release. It is for these eighty percent of the inmates that Informal Resolution was established. The formal hearing process, as well as serious disciplinary sanctions are in place for the twenty percent of our inmate population who commit serious disciplinary infractions. Twenty two percent of all misconducts written in the Department of Corrections are on level five inmates. Given that our level five population is only 2.5 percent of the total inmate population, the level five inmates clearly create a disproportionate impact on the misconduct system.

The inmate disciplinary system successfully identifies the inmates with serious disciplinary problems from the inmates who simply want to do their time safely. We owe it to the inmates to separate the serious disciplinary problems and provide the majority of the inmates with a safe and secure environment.

This concludes my testimony. I would be happy to answer any questions you might have.